

## **Chapter 54**

### **NATURAL RESOURCES**

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## ARTICLE I. SAND, ROCK AND MINERAL EXTRACTION

### Sec. 54-1. Applicability of Uniform Fire Code.

For the purposes of this article, the 1997 Uniform Fire Code (hereinafter the "UFC") article 77 (entitled "Explosive Materials") and article 1, section 105 (entitled "Permits") is hereby adopted and incorporated by reference for all purposes. A copy of the UFC shall be maintained at city hall for public inspection during regular business hours. (Ord. No. 164, § 1, 7-26-2001)

### Sec. 54-2. Purpose.

In order to promote the health, safety, and welfare of those who work or reside near extraction operations, and to protect air quality and the water resources of the city, the following regulations are applicable to extraction operations. (Ord. No. 164, §2 (120.01), 7-26-2001)

### Sec. 54-3. Definitions.

As used in this article, the following words and phrases shall have the definitions ascribed to them by this section:

*Administrator* means a member of the city staff designated by the mayor to administer and enforce the provisions of this article.

*Blasting* means the practice or occupation of extracting heavy masses of rock, or other materials imbedded in the ground, by means of explosives.

*Extraction operation* means the use of a lot or tract of land primarily for extraction of materials (including limestone, rock, sand, gravel, or soil, but not oil or natural gas) for any purpose other than excavation or grading necessary for the development of the lot or tract.

*Extraction site* means the location of materials or rock removal or extraction operations as delineated by a plat site plan or a certificate of occupancy.

*Legal holiday* means a holiday that is officially observed by the city by the closure of city offices.

*UFC* means the 1997 Uniform Fire Code.

(Ord. No. 164, §2 (120.02), 7-26-2001)

### Sec. 54-4. Scope.

This article shall apply, within the corporate limits of the city, to any activity that is related to the extraction or removing of rock or materials from the ground or any related activity. (Ord. No. 164, §2 (120.03), 7-26-2001)

### Sec. 54-5. Blasting.

All blasting activity that falls within the scope of this article shall comply with the following provisions:

- (1) Permit.

- a. *Required.* Prior to any blasting activity or preparation for blasting activity at an extraction site, an appropriate blasting or explosives permit must be acquired from the administrator.
  - b. *Rights granted; renewal.* Each such blasting or explosives permit will authorize blasting for extraction of materials (i.e., rock, stone, etc.) only at the extraction site designated on the permit, and shall expire if not reviewed annually by the administrator. In order to renew a permit the permit holder shall submit a request in writing, and appropriate fee, to the administrator no later than 30 days prior to the expiration date of the permit
  - c. *Fees.* The fee for a blasting or explosive permit and for annual review of an issued permit shall be as prescribed in the most recent adopted fee schedule passed and approved by the City Council. The fee shall be non-refundable. (Ord. No. 164, §2(120.11), 7-26-2001; Ord. No. 394, §4, 2-12-2009)
  - d. *Application; approval or denial; appeals.* The extraction site operator, or designated representative, may apply for an appropriate blasting or explosives permit in accordance with the following procedures:
    - 1. The applicant shall submit a completed permit application form and fee as required by the regulations contained in the UFC, as adopted by the city council;
    - 2. The administrator shall have 30 days in which to approve or deny the permit application;
    - 3. Any party aggrieved by the denial of a permit or inaction by the administrator may appeal such decision or inaction to the city council, provided that such appeal is made in writing within 45 days of the date the initial permit application was submitted to the administrator; and
    - 4. Upon receipt of the appeal notification, the mayor have the matter placed on the first available meeting of the city council and the council shall take the action on the matter at that meeting.
- (2) *Hours of operation.* The hours during which excavation may take place by blasting or use of explosives shall be any time during the hours between 8:00 a.m. and 5:00 p.m. Blasting shall not occur on Saturdays, Sundays or legal holidays, unless required by applicable safety regulations.
  - (3) *Regulatory compliance.* All blasting operations located within an extraction site shall comply with all applicable local, state and federal regulations concerning industrial noise and dust levels as well as applicable drainage, water and air standards.
  - (4) *Environmental protection.* For extraction sites and other land uses located over the Edwards Recharge Zone all required approvals of the Texas Commission on Environmental Quality (TCEQ), or its successor agencies, must be obtained prior to initiating blasting or the removal of materials from the ground by means of explosives within the site.
  - (5) Storage and handling of explosives.
    - a. The storage area for explosives shall be clearly marked and identified on the premises and a security fence must be established at a distance of at least 25 feet from the containers in which explosive materials are to be stored. The security

fence shall be at least eight feet in height and shall be made of chain link or other appropriate material. A lockable eight-foot gate shall be provided for access in and out of the security fence surrounding the storage area. The access gate for the explosives storage area must be kept locked at all times with an appropriate locking device or padlock. No keys to the locking device or padlock preventing access to the explosives storage area may be distributed by the quarry operator to any person other than those employees or subcontractors who have been trained and/or certified in the proper handling, storage, and use of explosive materials. As an alternative to the fencing requirement provided in this section, the quarry operator may use a solid steel storage container that has a lockable access point and that is capable of containing an accidental discharge or explosion of the explosive agents stored within the container.

- b. The storage facility in which explosive materials are stored must be located at least 500 feet from any adjoining property line.
- (6) *Monitoring of blasting.* Quarry operators shall be required to perform independent monitoring of blasting events to accumulate data with respect to the seismographic and shockwave effects of the blasting activity as required by federal and state law. The information generated in the form of reports or other data from this monitoring must be made available to the administrator within 72 hours from receipt by the owner/operator of a written request to review such information. The administrator shall honor and maintain the confidentiality of data submitted by quarry operators and identified as confidential data to the extent allowed by law.
  - (7) *Safety standards.* The quarry operator is responsible and required to comply with all applicable provisions of any federal or state law or applicable regulations promulgated by OSHA, MSHA, ATF, or any other executive agency of the federal or state government relating to the use, handling, storage, or detonation of explosives.
  - (8) *Inspections.*
    - a. The holder of a quarry blasting permit shall make the quarry site available to the administrator for inspection at all times during regular business hours.
    - b. All records relating to blasting activities will be made available to the administrator during normal business hours within 72 hours after such request is made.

(Ord. No. 164, §2 (120.11), 7-26-2001)

**Sec. 54-6. Control of adverse effects.**

- (a) *General requirements.* Extraction activities and blasting shall be conducted according to this section in addition to the requirements of section 54-5(3).
- (b) *Noise limits.* For the purpose of this article, the noise generated by the use of explosives in excavation activities shall be measured by the airblast created thereby.
  - (1) Airblast shall not exceed the maximum limits listed below at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area, except as provided in subsection (f) of this section.

<i>Lower Frequency Limit of Measuring System, in Hz (plus-minus 3 dB)</i>	<i>Maximum Level (dB)</i>
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0.1 Hz or lower--flat response*	134 peak
2 Hz or lower--flat response	133 peak
6 Hz or lower--flat response	129 peak
C-weighted--slow response*	105 peak dB(C)

\*Only when approved by the administrator.

- (2) The administrator shall be responsible for maintaining and reviewing the measuring of airblast levels in subsection (b)(1) of this section.
- (c) Monitoring requirement.
  - (1) The operator shall conduct periodic monitoring to ensure compliance with the airblast standards. Airblast measurement of blasts must be performed to the extent required by section 54-5(6).
  - (2) The measuring systems shall have an upper-end flat-frequency response of at least 200 Hz.
- (d) *Flyrock*. Flyrock traveling in the air or along the ground shall not be cast from the blasting site beyond the area under the control of the operator.
- (e) Ground vibration.
  - (1) *Generally*. In all blasting operations, except as otherwise authorized in subsection (f) of this section, the maximum ground vibration shall not exceed the values illustrated in Figure 1 (Bureau of Mines chart), which has been omitted from this Code. The maximum ground vibration for protected structures listed in subsection (e)(2)a of this section shall be established in accordance with the maximum peak particle velocity limits as shown below.
  - (2) Maximum peak particle velocity.
    - a. The maximum ground vibration shall not exceed the following limits at the location of any dwelling, public building, school, church, or community or institutional building outside the area under the control of the operator.
    - b. A seismographic record including both particle velocity and vibration-frequency levels shall be maintained for each blast to the extent required by section 54-5(6).
- (f) The maximum airblast and ground-vibration standards of this section shall not apply at the following locations:
  - (1) At structures owned by the permittee and not leased to another person.
  - (2) At structures owned by the permittee and leased to another person, if a written waiver by the lessee has been obtained.

(Ord. No. 164, §2 (120.12), 7-26-2001)

**Sec. 54-7. Burning of hazardous waste prohibited.**

No biomedical waste or other hazardous waste or materials may be burned or otherwise used as a fuel in conjunction with any quarry activity. (Ord. No. 164, §2 (120.21), 7-26-2001)

**Sec. 54-8. Beneficial reuse concept plan (BRCP).**

- (a) Extraction activities and facilities shall be required to submit a beneficial reuse concept plan (BRCP) prior to initiating extraction of raw materials, which shall provide the following:
  - (1) Address drainage from the pit area, taking into consideration opportunities for positive drainage and/or retention, recharge potential, and flood control;
  - (2) Address the extraction site's relationship to rights-of-way for arterial streets so that street grades may be anticipated;
  - (3) Demonstrate planning to address remediation of existing soil or water contamination;
  - (4) Provide a tentative schedule for commencement of beneficial reuse construction or remedial actions upon ceasing active extraction operations;
  - (5) Project, to the extent possible, the anticipated life of the extraction operation; and
  - (6) Provide a preliminary plan indicating potential future land use of the extraction site.
- (b) The BRCP shall be updated on an annual basis.

(Ord. No. 164, §2 (120.31), 7-26-2001)

**Sec. 54-9. Protection of public health, safety and welfare.**

Extraction operations which fall within the scope of this article and which include all related uses shall abide by the public health, safety, and welfare safeguards of this article. Owners and/or operators of such activities shall:

- (1) Comply with applicable federal and state water quality standards;
- (2) Upon request of the administrator, provide, to the city's satisfaction, documentation evidencing the characterization, handling, and disposal of any industrial waste generated by the activity. Documentation which will satisfy the characterization inquiry includes process knowledge literature and/or waste analysis records;
- (3) Upon request of the administrator, independent of the Federal Community Right to Know and Emergency Planning Act, provide copies of material safety data sheets (MSDS) for material maintained, stored, or used on the site. The materials subject to this section are those materials whose properties for volatility, flammability, explosive potential, corrosiveness, radioactivity, or other toxic or hazardous property allow them to be listed in the North American Emergency Response Guidebook, current edition, as amended; and
- (4) Upon request of the City of San Antonio Fire Department and/or SAWS, provide a site plan, when the City of San Antonio Fire Department and/or SAWS determines a site plan is necessary to an independent environmental assessment or other inquiry pertinent to the public health, safety, or welfare.

(Ord. No. 164, §2 (120.41), 7-26-2001)

**Sec. 54-10. Enforcement; inspection.**

- (a) The administrator or other designated city employee may enforce this article.
- (b) Extraction operations shall be available for inspection by the city during regular operating hours.

(Ord. No. 164, §2 (120.42), 7-26-2001)

**Sec. 54-11. Penalties.**

- (a) Generally.
  - (1) Violation of any provision of this article is a Class C misdemeanor and upon conviction may be punished by a fine not to exceed \$2,000.00 per occurrence.
  - (2) Except for blasting violations which are covered by subsection (b) below, the mayor may direct the city attorney to immediately seek additional remedies at law or in equity to prevent a violation of this section.
- (b) *Blasting*. In addition to the criminal penalties noted above:
  - (1) The mayor may direct the city attorney to immediately seek additional remedies at law or in equity to prevent blasting by any party who does not have a blasting permit.
  - (2) The mayor may direct the city attorney to seek to revoke a blasting permit pursuant to the provisions of the UFC where the permit holder has demonstrated a pattern of violations of this article. A pattern of violations is established upon three convictions in municipal court.

(Ord. No. 164, §2 (120.43), 7-26-2001)

Chapters 55 - 57. Reserved.

